

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

FEDERAL TRADE COMMISSION,)
Plaintiff,)
)
v.) Civil Action No. 97-1278
)
DAVISON ASSOCIATES, INC.,)
et al.,)
Defendants.)

PRE-HEARING MEMORANDUM

Gary L. Lancaster,
District Judge

April 24, 2006

AND NOW, this 24 day of April, 2006, IT IS HEREBY
ORDERED that a hearing will be held in this matter on May
11, 2006, at 10:00 a.m. At that hearing the court will hear
evidence and argument regarding the following matters raised
by Defendants' Motion to Alter or Amend Judgment [doc. no.
247] and Plaintiff's Motion for the Appointment of an
Auditor [doc. no. 253]:

- (1) Defendants' request for modification and
clarification of various terms and conditions of the March
17, 2006 Order for Permanent Injunction;
- (2) Defendants' request for modification of the amount
of consumer redress due to defendants' inability to pay;
- (3) Defendants' request for a stay of the monetary
portion of the March 17, 2006 order pending appeal (the
parties are hereby notified that the court will specifically
address the requirement of a supersedeas bond, and any
waiver or modification of its amount, under Federal Rule of

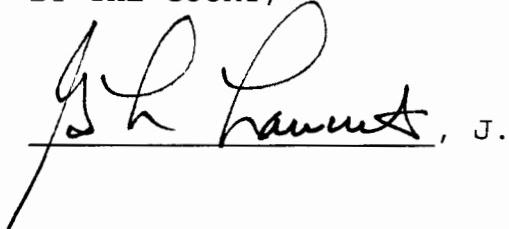
Civil Procedure 62(d) at the hearing); and

(4) The basis for plaintiff's request for the appointment of an auditor.

The court will not address defendants' argument that the amount of consumer redress should be reduced due to the passage of the American Inventors Protection Act (the "AIPA"), as that issue has previously been ruled upon by the court. See Doc. No. 214. The court will also not consider any proposed plan for consumer redress prepared and to be administered privately by defendants. It is the province of the FTC under the court's March 17, 2006 order, and standard practice, to propose and administer a plan for consumer redress. The court will issue appropriate rulings on these matters in due course.

The court will not address defendants' arguments regarding the availability or proper calculation of restitution under section 13(b) of the FTC Act. The court will make its decision on these issues on the papers.

BY THE COURT,


John Lawrence, J.

cc: All Counsel of Record